

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

**REMARKS/ARGUMENTS**

Claims 13-29 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-10, 13 and 14 of copending application Serial No. 09/490,709. In response, Applicants submit a terminal disclaimer relative to the copending application.

Claims 13-29 were provisionally rejected under 35 USC § 102(e) as being anticipated by copending application Serial No. 09/490,709. According to the Examiner, the rationale set forth in paragraph No. 6 of paper No. 5 is not believed to have been significantly addressed by applicants. That rationale was set forth in paragraph No. 6 of paper No. 5 as follows:

“[A]lthough the nomenclature in each of the three applications is different in fact, as is clearly evident e.g. in the drawings, the scope of the subject matter of **the claims** of each application clearly read upon each of the **other application's claims**.”

[All emphasis added.]

In response, Applicants stated the following on page 14 of the amendment dated February 23, 2003:

"In response to all three preceding rejections, Applicants point out that the instant claims embrace fixing labels of *"a predetermined length prior to its use in said splicing method."* The adhesive tapes of the copending applications need not be of said predetermined length. Consequently, although there may be overlap between the applications, **there is not exact identity**, thereby precluding all of the foregoing rejections."

[Bold italics in original; and bold only added.]

Thus, the Examiner found that there was anticipation because the claims of the applications overlapped. Applicants clearly and unequivocally responded that there was no anticipation because although there was overlap, there was not identity, and identity is what is required for anticipation, not merely overlap.

In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw all rejections.

Applicants believe that the foregoing constitutes a bona fide response to all outstanding objections and rejections.

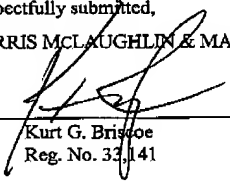
Applicants also believe that this application is in condition for immediate allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

09/03/2004 04:40:25 PM 2128080844  
Application No. 09/877,621  
Amendment Under 37 CFR § 1.116  
Reply to Office Action Dated June 3, 2003

Early and favorable action is earnestly solicited.

Respectfully submitted,  
NORRIS MCLAUGHLIN & MARCUS, P.A.

By

  
Kurt G. Briscoe  
Reg. No. 37,141

220 East 42<sup>nd</sup> Street  
30<sup>th</sup> Floor  
New York, New York 10017  
(212) 808-0700

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Amendment under 37 CFR § 1.116 (4 pages total) is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

Date: May 3, 2004

By

  
Jennifer Archer